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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,402	07/18/2003	Robert H. Mimlitch III	14489-009001	4137

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,402	<b>Applicant(s)</b> MIMLITCH ET AL.	
	<b>Examiner</b> Jennifer E. Novosad	<b>Art Unit</b> 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restriction***

Applicant's election without traverse of Group I, i.e., claims 1-19 in the reply filed on February 22, 2005 is acknowledged. *Accordingly*, claims 20-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

***Abstract***

Applicant is reminded of the proper language and format for an abstract of the disclosure. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "is disclosed" as in line 2.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 11, 12, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said support" in line 2. There is insufficient antecedent basis for this limitation in the claim.

The use of the phrase "may be" in line 6 of claim 1 renders the claim indefinite since what "may" be to one "may not" be to another. *Thus*, the metes and bounds of the claim cannot be properly ascertained since it is unclear whether the recitation proceeding "may be" in claim 1 is being positively required or not.

Each of claims 2-4 is rendered indefinite since the claims fail to further define the positively claimed structure of the support shelf, i.e., since the equipment is not being positively claimed, it is improper to seek to further define it without structurally limiting the positively claimed subject matter. *Similarly*, claims 11 and 12 are rendered indefinite since the rack system is not being positively claimed.

Claim 18 is rendered indefinite by the recitation "corresponding in location" since the load is not being claimed it is improper to seek to link the positive structure of the base to the functional structure of the load.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 11, and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,719,149 (Tomino '149).

Tomino '149 discloses a support shelf (see Figure 2) for supporting a load (300) in a two-post (12) rack system whereby the load is not coupled to the rack system and is defined as electrical equipment; the shelf has a base (at 180) having an upper surface and a slide (including 190) attached to the base; the slide includes means for providing smooth movement of the base with respect to the rack system which defines an inner and outer slide member (see Figure 2); the base includes means to accommodate loads of varying width, i.e., a large space, and means (at 186) for management of cabling, and means (at 184) for reducing movement of the load which includes a hole.

Claims 1-6 and 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,739,682 (Shih '682).

Shih '682 discloses a support shelf (see Figure 7) for supporting a load in a two-post or four-post (3) rack system whereby the load is not coupled to the rack system and is defined as electrical equipment; the shelf has a base (at 46) having an upper surface and a slide attached to the base; the slide includes means for providing smooth movement of the base with respect to the rack system which defines an inner and outer slide member (see Figure 6) and means for attachment to the rack system regardless of the depth which includes a conversion bracket (at 12 and 22 - see Figure 3A).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomino '749 as applied to claims 1-6, 11, and 13-18 above, and further in view of U.S. Patent No. 5,215,362 (Zoellner '362).

Tomino '749 discloses the shelf as advanced above.

The claims differ from Tomino '749 in requiring the slide members to be coupled by a fastener with a low friction material defining brass.

Zoellner '362 teaches the use of brass fasteners.

*Accordingly*, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have utilized brass fasteners for reducing friction and allowing for ease in movement.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shih '682 as applied to claims 1-6 and 9-12 above, and further in view of Zoellner '362.

Shih '682 discloses the shelf as advanced above.

The claims differ from Shih '682 in requiring the slide members to be coupled by a fastener with a low friction material defining brass.

Zoellner '362 teaches the use of brass fasteners.

*Accordingly*, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have utilized brass fasteners for reducing friction and allowing for ease in movement.

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Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shih '682 as applied to claims 1-6 and 9-12 above, and further in view of U.S. Patent No. 5,873,641 (Spinelli '641).

Shih '682 discloses the shelf as advanced above.

The claims differ from Shih '682 in requiring means for reducing movement of the load which defines an anti-slip mat.

Spinelli '641 teaches the use of an anti-slip mat for reducing movement of a load.

*Thus*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed an anti-slip mat in the shelf of Shih '682 for increased securement of items placed therein.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomino '149 as applied to claims 1-6, 11, and 13-18 above, and further in view of Spinelli '641.

Tomino '749 discloses the shelf as advanced above.

The claims differ from Tomino '749 in requiring means for reducing movement of the load which defines an anti-slip mat.

Spinelli '641 teaches the use of an anti-slip mat for reducing movement of a load.

*Thus*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed an anti-slip mat in the shelf of Tomino '749 for increased securement of items placed therein.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

Please note, that due to the relocation of the U.S. Patent and Trademark Office from Arlington to Alexandria, Virginia, the Examiner's phone number will be changed. After April 7, 2005, please contact the Examiner at (571) 272-6832.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
March 29, 2005